IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Heera Lal & Others Vs. Municipal Board Dausa
(D.B. Civil Special Appeal (Writ) No.483/1994)

D. B. Civil Special Appeal under Sec.18 of the Rajasthan High Court Ordinance against the order dated 2-2-1994 in SB Civil Writ Petition No.6958/1993.

Date of Judgment: January 10, 2007.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA
HON'BLE MR. JUSTICE R.S.CHAUHAN

Mr. M.M.Ranjan, for the appellants.

Mr. Satyavrat Sharma, for the respondent.

BY THE COURT: (PER HON'BLE Shiv Kumar Sharma,J.)

Challenge in the instant appeal is to the order dated February 2, 1994 whereby learned Single Judge dismissed the writ petition preferred by appellants holding that the respondent Municipal Board Dausa did not commit any illegality in passing the order dated April 2, 1993.

2. By filing the writ petition under Article 226 of the Constitution the appellants prayed that the order dated April 2, 1993 issued by Municipal Board Dausa for regular appointment with effect from January 1, 1987 be quashed and the Municipal Board Dausa be directed to treat the appellants Nakedar/ Sub-nakedar with effect from June 29, 1984 as ordered by the Labour Court in its award dated June 8, 1988 passed in Reference Case No.LCR 278/1985.

3. In the award dated June 8, 1988 the Labour Court had taken note of the statement made by Employer that the action regarding termination of service of the appellants had been withdrawn and they were taken back on duty. The Labour Court observed that all the three workmen (appellants) have been wrongfully removed from service and they were entitled to be treated in service from June 29, 1984 and were entitled to the benefit of continuity of service. The Labour Court further directed that the workmen shall be entitled to fixed wages of Rs.300/- per month (Nakedar) and Rs.250/- per month (Sub-nakedar). Before learned Single Judge it was argued on behalf of the appellants that since Labour Court had directed that the workmen be treated to be in service and they must be treated as substantive appointee from June 29, 1984. The submission of learned counsel for the appellants was that by giving appointment with effect from January 1, 1987, the Municipal Board Dausa has contravened the award passed by the Labour Court.

4. Having scanned the material on record, we notice that the appellants were appointed on June 29, 1984 in the service of Municipal Board Dausa on fixed wages. They continued to serve the Municipal Board Dausa on fixed wages till the termination of their service. They were reinstated during the pendency of the proceedings before the Labour Court and in the context of their reinstatement the Labour court directed that they should be treated as continuing in service with effect from June 29, 1984. The Labour Court has not declared that the appellants should be deemed to be regularly appointed as Nakedar or Sub-nakedar with effect from June 29, 1984. In fact such direction could not have been issued by the Labour Court because regular appointment on the posts of Nakedar and Sub-nakedar could

be made only in accordance with the provisions of Rajasthan Municipalities Subordinate Service Rules,1963 through the agency of the Service Selection Commission and it was not case of the appellants that their initial appointment was through the agency of the Service Selection Commission. Once the appellants are adjudged suitable by the Service Selection Commission only thereafter the Municipal Board Dausa could have been given appointment to the appellants.

5. For these reasons, we find no infirmity in impugned judgment of the learned Single Judge. The instant appeal being devoid of merit stands dismissed without any order as to costs.

(R.S.Chauhan),J. (Shiv Kumar Sharma)J.

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